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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,980	08/15/2006	Jorn Borgert	2004P00435W0US	8813
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PHILIPS INTELLECTUAL PROPERTY & STANDARDS				
P.O. BOX 3001				
BRIARCLIFF MANOR, NY 10510				
EXAMINER				
GUPTA, VANI				
ART UNIT		PAPER NUMBER		
3777				
NOTIFICATION DATE		DELIVERY MODE		
01/06/2012		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary**Application No.**

10/597,980

Applicant(s)

BORGERT ET AL.

Examiner

VANI GUPTA

Art Unit

3777

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 1,2,4-9 and 11 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1,2,4-9 and 11 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SD-03)
Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 2, 4 – 9, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khan et al. (US 2004/0171934 A1) in view of Gordon (US 5,938,645).

Regarding claim 1, Khan discloses a catheter system, comprising: a first catheter element (“catheter”) at least a first active localizer corresponding to a portion of the first catheter element, the first active localizer indicating a spatial position of the portion of the first catheter element; a second catheter element (“guidewire”) with at least a second active localizer corresponding to a portion of the second catheter element, the second active localizer indicating a spatial position of the portion of the second catheter element; and wherein the first and the second active localizers simultaneously indicate the spatial positions of the portions of the first and second catheter elements; wherein the first and the second catheter element are slidably coupled (Abstract; [0005], [0008], [0021], [0022 – 0024], [0026], [0029], [0032]).

However, Khan differs from Claim 1 in that Khan does not specifically suggest a fixing device for fixing a position of at least one of the catheter elements in a surrounding vessel.

Nonetheless, Gordon suggests that a catheter in a catheter-guidewire arrangement may contain a fixing device for fixing a position of at least one of the catheter elements in a surrounding vessel (col. 6, ll. 2 – 4).

Accordingly, it would be obvious to one of ordinary skill in the art, having the teachings of Khan and Gordon before one at the time the invention was made, to modify the dual-catheter element with localizers arrangement of Kahn with the fixing device of Gordon to fixate the device into place as would be known in the art.

Regarding Claim 4, Khan suggests that at least one of the localizers is capable of being a magnetic field sensor in an external magnetic field for determining the spatial position (see rejection of Claim 1).

Regarding Claim 5, Khan suggests that at least one of the localizers contains a source for electromagnetic or acoustic radiation (see rejection of Claim 1).

Regarding claims 6 and 11, Khan suggests that the localizers may be placed less than 10 cm and/or less than 5 cm from each other during the use of the catheter system (paragraph [0029]).

Regarding claims 7 and 8, Khan suggests a method for navigation of a catheter system in a vascular system, wherein the catheter system contains a first and a second catheter element, which are coupled to each other such that they can slide with respect to each other and carry at least a first or second active localizer respectively; and determining a spatial position of the first active localizer relative to the vascular system; and determining a spatial position of the second active localizer relative to the spatial position of the first active localizer, wherein the determining steps are performed substantially simultaneously (see rejection of claims 1 – 3).

Regarding claim 9, Khan suggests the spatial position of the first active localizer relative to the vascular system is determined based on an image of the vascular system (paragraph [0008], [0032]).

Response to Arguments

2. Applicant's arguments filed October 24, 2010 have been fully considered but they are not persuasive.

In response to Applicant's arguments about whether Khan suggests that the guidewire used to facilitate placement of the catheter includes at least one of the plurality of tracking coils (16), Examiner points out respectfully that:

1) the claims do not actually require that there be an active locator physically placed on the second catheter element (or guidewire), only that the locator is associated or corresponds with the a portion of the second catheter element. This association or correspondence could pertain also to functional and/or electrical and/or magnetic and/or mechanical relationships. Kahn suggests at least this much by describing a plurality of tracking coils (*16*) ([0026]) that are used to assist the catheter through the guidewire ([0020 – 0021], [0032]). Thus, by virtue of tracking the catheter thru the guidewire, one may obtain information about a portion of the guidewire; and

2) should the claims be narrowly interpreted to mean that at least a second active locator is physically located on the guidewire, then Applicant is directed respectfully to Khan for these teachings as well. Khan described medical devices to include catheters and other suitable devices including a guidewire ([0005] and [0008]). Khan continues, explaining that the disclosed

invention is capable of simultaneously tracking the positions of multiple devices and that the tracking coils (*16*) may be placed on each of the devices to accomplish this type of tracking ([0006], [0022 – 0023], [0026], [0028]).

In response to Applicant's arguments with respect to Gordon, wherein there has been presented a combination of references for a rejection one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Applicant is directed to the rejections, wherein Gordon presents a fixing device for fixing a position of at least one of the catheter elements in a surrounding vessel; and comments/responses above for Khan's teachings of other portions of the present claims.

Conclusion and Communication

3. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VANI GUPTA whose telephone number is (571)270-5042. The examiner can normally be reached on Monday - Thursday (8:30 am - 5:30 pm; EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert (Tse) Chen can be reached on 571-272-3672. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/V. G./
Examiner, Art Unit 3777

/Tse Chen/
Supervisory Patent Examiner, Art Unit 3777